

**IDAHO REAL ESTATE COMMISSION
MEETING MINUTES
February 21, 2008**

Pursuant to notice given, the meeting of the Idaho Real Estate Commission (Commission) was held at Idaho Real Estate Commission, 633 N 4th Street, Boise, Idaho, on Thursday, February 21, 2008 at 8:30 a.m.

Commission Members Present:

Steve Kohntopp, Chair, Filer
Andy Enrico, Vice Chair, Boise
Kelly Fisher, Member, Pocatello
Pam Trees, Member, Lewiston
Comprising a quorum of the Commission

Members Absent:

Staff Present:

Jeanne Jackson-Heim, Executive Director
Craig Boyack, Chief Investigator
Mandy Frary, Education Director
Tammy Anderson, Administrative Assistant

Others Present:

Kim Coster, Commission Legal Counsel
See attached list

Meeting was called to order at 8:30 a.m. by Commission Chair, Steve Kohntopp.

Introductions:

- a. Commissioners
- b. Staff
- c. New Staff, Mandy Frary, Education Director

Approval of Meeting Minutes: Motion was made by Kelly Fisher to approve the January 17, 2008 Commission meeting minutes. Motion carried.

Approval of Agenda: Motion was made by Kelly Fisher to approve the February 21, 2008 agenda. Motion carried.

Financial Reports: Motion was made by Kelly Fisher to approve the January 2008, Financial Reports. Motion carried.

Salesperson and Broker Licenses Issued: Members reviewed the salesperson and broker licenses issued during the month of January 2008, a copy of which has been made part of these minutes. Motion was made by Kelly Fisher to approve the report. Motion carried.

License Examination Statistics

Commissioners reviewed the license exam statistics report.

Staff Reports:

Enforcement:

The following reports were presented for members' review; copies of which are on file at the Commission office.

- **Complaint Summary Report**
- **Audit Summary Report**
- **Enforcement Telephone Activity Log**
- **Education Funds Awards**

Licensure:

The following reports were presented for members' review; copies of which are on file at the Commission office:

- **FY07-FY08 Analysis of Active & Inactive License Base:**
- **On-Line Renewal Reports**

Information and Technology Reports:

Members reviewed the Information and Technology reports; copies of which are on file at the Commission Office.

Online Lottery Drawing: Cathy Locatelli (SP11597), from Idaho Land Company, Montana, won the lottery drawing for February 21, 2008.

Commission's Counsel Report:

- **Prohibition Against Interfering with Brokerage Relationship:** Kim Coster discussed with members the varying legislative approaches adopted by several other states to protect or regulate a broker's contractual relationship with its client. Kim advised that Idaho Code 54-2054(4), which prohibits "interference with the contractual relationship," could be amended, or clarified in rule, to accomplish the Commissioners' aim to prohibit third-party conduct that attempts to interfere with existing brokerage agreements. Steve reported that his recent discussions with past Commission members confirm that IREC intended to forbid outside parties, namely relocation companies, from attempting to have a client break the contract. Members agreed that a clear definition of the prohibition is needed and requested Kim to present draft proposals at the next meeting
- **Update on Revision to Licensing agreement:** Kim Coster informed members that Montana, Oregon and Wyoming – states with whom IREC has "reciprocal" licensing agreements – are still reviewing Idaho's proposed revisions to the agreements. These revisions, if accepted, would bring the license recognition requirements in line with those of the other 12 states with whom Idaho has agreements. Members agreed with Jeanne that the topic of interstate licensing agreements merits further discussion and should be brought up at the District 4 meeting in Pasadena, CA.

Idaho Association of REALTORS® Report: Willis Stone, IAR President reported concern over the Ninja Selling course that was rejected for CE credit. Jeanne Jackson-Heim stated that when the course was submitted it was not clear it was a CRS course. The course since has been accepted. To eliminate this problem in the future, it was suggested to put on the course application a space to state whether or not the course being submitted is a designation course. It was further reported that the lawsuit over the "inclusionary zoning" issue in McCall has been decided in IAR's favor. Also, the IAR bill (S 1401) passed Committee and was sent to the Senate floor. This bill would change the License Law to state that sales prices are not confidential information. A full sales price disclosure bill (S1400) was sent to the amending order.

Education:

- **RFP for Testing Provider:** Mandy Frary stated she has been working on the draft RFP and gave a timeline to the Commissioners for putting the contract out to bid. The existing contract expires March 2009.
- **BCOO & Broker Management Update:** The BSU Team is working with the Subject Matter Experts. Both course revisions will be complete in May 2008.

- **Core 2008 Update: Subjects:** IREC has been working with the Department of Finance and IAR on the Loan Fraud DVD. Mandy Frary reviewed the topics and speakers for IDW. TJ Angstman will prepare case law update and Erin Wynne will present it, Doug Marfice will present hot topics and Miguel Legaretta will present Legislative updates.
- **IDW Update:** IDW Registration forms are completed. There were 1400 printed and they will be sent out to all providers and instructors. CE Credit will not be awarded for IDW with the exception of Core.

Executive Director's Report:

- **Review of Approved Topics for CE (Rule 402):** IREC is looking to receive feedback from IAR on Rule 402 for possible clarification. The IAR Education Committee is reviewing and will provide recommendations.
- **Draft Broker Bulletin:** This quarter's Broker Bulletin pertains to two main topics; one is updates to IREC's online services and the second is continuing education policies.
- **Advertisement of Available Commission Seat:** Jeanne has been checking into how advertisement of available Commission seats has been handled in the past. Jeanne was directed by Commissioners to post available seats for both Commissioner and Education Council on the IREC website.
- **Status of New Online Services:** Jeanne gave an update and showed the Commissioners webpage improvements.

CE Stipulations:

Case of Staff vs. W. Neil Fox, Jr. (Ex-Parte). In consideration of the facts and evidence presented, motion was made by Pam Trees to accept without exception the Stipulation which had been agreed to by W. Neil Fox, Jr. and that the "Final Order" for disciplinary actions against Mr. Fox be as follows:

- 1) That W. Neil Fox, Jr. shall be issued a formal reprimand.
- 2) That W. Neil Fox, Jr. pay a civil fine in the amount of Five Hundred Dollars (\$500.00) by March 28, 2008.
- 3.) That W. Neil Fox, Jr. pay the cost and attorney's fees incurred in the investigation/prosecution of this matter in the amount of One Hundred Twenty-Five Dollars (\$125.00) by March 28, 2008.

4.) That the Commission shall be entitled, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately suspend Respondent's license in the event the Respondent fails to timely comply with any term or condition of the Final Order. Notice of such action sent to the most current address provided by the Respondent to Staff shall be deemed sufficient. Any license suspension may be reinstated upon petition to the Commissioners after compliance of the Stipulation term or condition.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Special Considerations & Felony Exemptions:

In accordance with section 67-2345 (1)(d), Idaho Code, a motion was made by Kelly Fisher to adjourn to executive session to review special request licensure files and requests for felony exemption submitted pursuant to Section 54-2012, Idaho Code. Motion carried. Members reviewed exempt records submitted by petitioners in support of the requests for special consideration and felony exemptions.

Regular Session: There being no further purpose for an executive session, a motion was made by Andy Enrico to adjourn the executive session. Motion carried.

Special Consideration #08-001 - Exemption for Review 54-2012(2)(a). Following discussion and review of the documents submitted, motion was made by Kelly Fisher to approve the request for felony exemption. Motion carried.

Special Consideration #08-002 Exemption for Review 54-2012(2)(a). Following discussion and review of the documents submitted, motion was made by Andy Enrico to deny request. Motion carried.

Education Funds Awards:

Executive Session: In accordance with section 67-2345 (1)(d), Idaho Code, a motion was made by Pam Trees to adjourn to executive session to review special request licensure submitted pursuant to Section 54-2022(2) & (6), Idaho Code. Motion carried. Members reviewed special request.

Regular Session: There being no further purpose for an executive session, a motion was made by Pam Trees to adjourn the executive session. Motion carried.

08-041 A motion was made by Andy Enrico to request the applicant resubmit a revised application to correct errors in the budget. Motion carried.

08-042 A motion was made by Andy Enrico to request the applicant resubmit a revised application to correct errors in the budget. Motion carried.

08-043 A motion was made by Kelly Fisher to request the applicant resubmit a revised application based on clarifications to be identified by staff. Motion carried.

Petition for Review #08-038 – Request for Special Consideration seeking Certification of Course Content as within the Topic Area Approved for Continuing Education Credit 54-2036: Following discussion and review of the documents submitted, a motion was made by Pam Trees to approve the request. Motion carried.

Petition for Review #08-039 – Request for Special Consideration seeking Certification of Course Content as within the Topic Area Approved for Continuing Education Credit 54-2036: Following discussion and review of the documents submitted, a motion was made by Pam Trees to resubmit the request, through the Education Council. Motion carried.

Executive Session: In accordance with section 67-2345 (1)(d) & (f), Idaho Code, a motion was made by Pam Trees to adjourn to executive session to review probable cause memoranda submitted pursuant to Section 54-2058(1), Idaho Code. Motion carried. Members reviewed probable cause memoranda.

Regular Session: There being no further purpose for an executive session, a motion was made by Pam Trees to adjourn the executive session. Motion carried.

Probable Cause Memo # 07-40200: A motion was made by Pam Trees finding that the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Section 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Motion carried.

Probable Cause Memo # 07-35900, 07-35901: A motion was made by Kelly Fisher finding that the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Section 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Motion carried.

Probable Cause Memo # 07-38000: A motion was made by Steve Kohntopp finding that the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Section 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Pam Trees and Steve Kohntopp in favor, Andy Enrico and Kelly Fisher opposed. Motion failed. After further discussion, Andy Enrico moved to authorize staff to proceed with formal action on the violations as submitted. Motion carried.

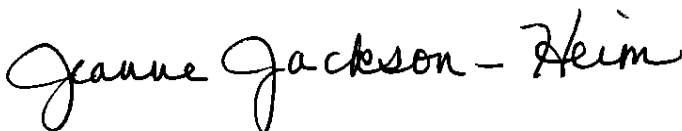
Executive Session Personnel Matters: In accordance with section 67-2345 (1)(b), Idaho Code, a motion was made by Pam Trees to adjourn to executive session to evaluate Executive Director in regard to proposed merit pay increases. Motion carried.

Regular Session: There being no further purpose for an executive session, a motion was made by Pam Trees to adjourn the executive session. Motion carried.

Jeanne Jackson-Heim presented a matrix for short term merit pay increases which are being implemented for staff. A motion was made by Kelly Fisher to approve the inclusion of Jeanne Jackson-Heim for a short term merit pay increase in accordance with the Matrix. Motion carried.

There being no further business, motion was made by Andy Enrico to adjourn the meeting at 3:48 p.m. Motion carried.

Respectfully Submitted,



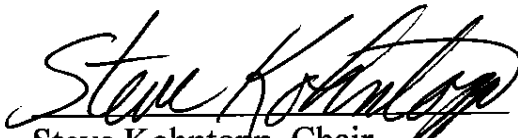
Jeanne Jackson-Heim
Executive Director

JJH: tla

Attachments: Licenses Issued January 2008
FY07-FY08 Analysis of Active & Inactive License Base
Online License Reports
Complaint Summary Report
January 2008, Financial Reports
Information and Technology Reports

“Final Order” – W. Neil Fox, Jr.

Minutes of the Idaho Real Estate Commission meeting in Boise, Idaho, on February 21, 2008, are hereby approved.


Steve Kohntopp, Chair


Kelly Fisher, Member


Andy Enrico, Vice Chair


Pamela Trees, Member